

Council Regulation (EC) No 1407/2002 of
23 July 2002 on State aid to the coal industry

CHAPTER 3

NOTIFICATION, APPRAISAL AND AUTHORISATION PROCEDURES

Article 9

Notification

1 In addition to the provisions of Article 88 of the Treaty and Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty⁽¹⁾, aid as referred to in this Regulation shall be subject to the special rules laid down in paragraphs 2 to 12.

2 Member States which grant aid to the coal industry shall provide the Commission with all the information needed, against the current energy background, to justify the estimated production capacity forming part of the plan for accessing coal reserves, the minimum production level needed to guarantee such access, as well as, regarding the categories of aid provided for in this Regulation, the appropriate types of aid, taking account of the specificities of the coal industry in each Member State.

3 Production costs are calculated in accordance with the three-monthly outline statements of costs sent to the Commission by the coal undertakings or associations thereof. The coal undertakings include normal depreciation and interest on borrowed capital in their calculation of production costs. Eligible interest costs on borrowed capital shall be based on market-based interest rates and limited to operations (processes) listed in Article 2(e).

4 Member States which intend to grant aid for the reduction of activity as referred to in Article 4 shall submit beforehand to the Commission a closure plan for the production units concerned by 31 October 2002 at the latest. This plan shall provide for the following minimum elements:

- a identification of the production units;
- b the real or estimated production costs for each production unit per coal year; these costs are calculated in accordance with paragraph 3;
- c estimated coal production, per coal year, of production units forming the subject of a closure plan;
- d the estimated amount of aid for the reduction of activity per coal year.

5 Member States which intend to grant the aid as referred to in Article 5(2) shall, by 31 December 2002 at the latest, submit to the Commission a provisional plan for accessing coal reserves. That plan shall provide, as a minimum, for objective selection criteria, such as economic viability, to be met by the production units in order to receive aid for investment projects.

6 Member States which intend to grant the aid as referred to in Article 5(3) shall, by 31 October 2002 at the latest, submit to the Commission a plan for accessing coal reserves. That plan shall provide for the following minimum elements:

- a objective selection criteria to be met by the production units in order to be included in the plan;

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1407/2002, CHAPTER 3. (See end of Document for details)

- b identification of production units or a group of production units in the same coal undertaking meeting such selection criteria;
- c the real or estimated production costs for each production unit per coal year; these costs are calculated in accordance with paragraph 3;
- d an operating plan and a financing plan for each production unit or group of production units in the same undertaking reflecting the budgetary principles of Member States;
- e estimated coal production, per coal year, of the production units or group of production units in the same undertaking forming part of the plan for accessing coal reserves;
- f the estimated amount of aid for accessing coal reserves for each coal year;
- g the respective shares of indigenous coal and renewable energy sources against the amount of indigenous primary energy sources that contribute to the objective of energy security within the framework of sustainable development and their expected upward or downward trend.

[^{F1}6a The Member States acceding to the Union on 1 May 2004 shall submit the plans referred to in Article 9(4), (5), and (6) as soon as possible after accession and in any event no later than 31 August 2004.]

[^{F2}6b The Member States acceding to the Union on 1 January 2007 shall submit the plans referred to in Article 9(4), (5), and (6) as soon as possible after accession and in any event no later than 30 April 2007.]

7 As part of the notification of the plans referred to in paragraphs 4, 5 and 6, Member States shall provide the Commission with all the information regarding reductions in greenhouse gas emissions. They shall refer in particular to reductions in emissions resulting from efforts made to use clean coal combustion technologies.

8 Member States may, on duly justified grounds, notify the Commission of the individual identity of production units forming part of the plans referred to in paragraphs 4 and 6 by June 2004 at the latest. [^{F1}The Member States acceding to the Union on 1 May 2004, may make this notification after accession and in any event no later than 31 August 2004.][^{F2}The Member States acceding to the Union on 1 January 2007, may make this notification after accession and in any event no later than 30 April 2007.]

9 Member States shall inform the Commission of any amendments to the plan initially submitted to the Commission in accordance with paragraphs 4, 5, 6, 7 and 8.

10 Member States shall send notification of all the financial support which they intend to grant to the coal industry during a coal year, specifying the nature of the support with reference to the forms of aid provided for in Articles 4, 5 and 7. They shall submit to the Commission all details relevant to the calculation of the foreseeable production costs and their relationship to the plans notified to the Commission in accordance with paragraphs 4, 5, 6, 7 and 8.

11 Member States shall send notification of the amount and full information about the calculation of the aid actually paid during a coal year no later than six months after the end of that year. Before the end of the following coal year, they shall also declare any corrections made to the amounts originally paid.

12 When notifying aid as referred to in Articles 4, 5 and 7 and making the statement of aid actually paid, Member States shall supply all the information necessary for verification of the conditions and criteria set out in these provisions.

Textual Amendments

- F1** Inserted by Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded.
- F2** Inserted by Council Regulation (EC) No 1791/2006 of 20 November 2006 adapting certain Regulations and Decisions in the fields of free movement of goods, freedom of movement of persons, company law, competition policy, agriculture (including veterinary and phytosanitary legislation), transport policy, taxation, statistics, energy, environment, cooperation in the fields of justice and home affairs, customs union, external relations, common foreign and security policy and institutions, by reason of the accession of Bulgaria and Romania.

Article 10

Appraisal and authorisation

1 The Commission shall appraise the plan(s) notified in accordance with Article 9. The Commission shall take a decision on their conformity with the conditions and criteria set out in Articles 4, 5, 6, 7 and 8 and on their compliance with the objectives of this Regulation, in accordance with the rules of procedure laid down in Regulation (EC) No 659/1999.

2 The Commission shall examine the measures notified in accordance with Article 9(10) in the light of the plans submitted in the framework of Article 9(4), (5), (6), (7) and (8). It shall take a decision in accordance with the requirements of Regulation (EC) No 659/1999.

Changes to legislation: There are currently no known outstanding effects for the
Council Regulation (EC) No 1407/2002, CHAPTER 3. (See end of Document for details)

- (1) [OJ L 83, 27.3.1999, p. 1.](#)

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